

R E M A R K S

Formal drawings have been substituted for the informal drawings on file. The matters raised in the Examiner's Office Action have been attended to.

Claim 5 has been cancelled; and new claims 15 - 17 have been added. Claims 1 - 4 and 6 - 17 are pending in the application.

Claims 2 - 4 have been rewritten to make them independent from claim 1. Claims 15, 16 and 17 have been added.

The allowance of claims 7 and 10 - 12 is noted. Claims 2 - 4 should also be allowed since they are now independent of claim 1.

Claim 1 has been amended to recite *inter alia* that the top panel member has a width greater than the width of the block or brick wall.

Traversals of the prior art rejections under 35 U.S.C. §102(b).

The rejection of claims 1, 5, 9, 13 and 14 under 35 U.S.C. §102(b) as being anticipated by Carlberg (US 5,479,750) is respectfully traversed.

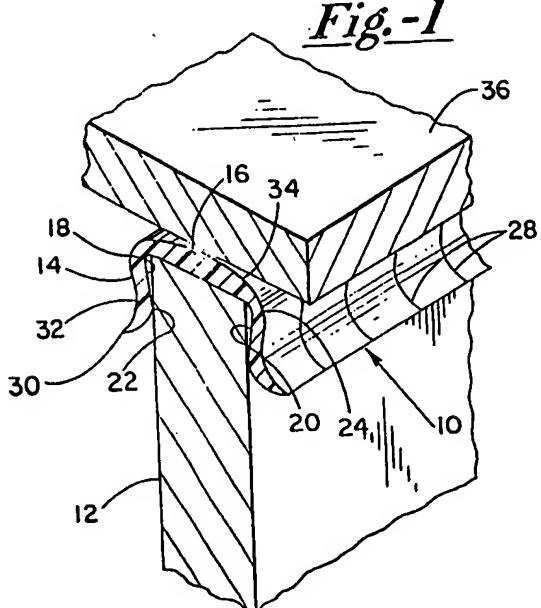


Fig.-I

The Examiner refers to Figure 1 of Carlberg which is reproduced to the left hereof for convenience of reference.

Note that Carlberg states:

Since joist cap 10 is comprised of a flexible plastic material of moderate thickness, fasteners, such as nails or screws, can be driven through the floor material 36, through joist cap 10, and into the upper support surface of joist 12 to be secured thereto. While a thin metal material could be used to form joist cap 10, plastic is preferred since it is non-corrosive, provides a water seal around the fasteners, can be formed of color coordinated plastics, is more flexible, and can have resilient properties to provide a sound dampening feature as well. A plastic material having a resilient property will dampen noise and vibration generated when one walks upon support surface 36. (Col. 4, lines 37-49)

Thus, Carlberg's plastic cap 10 is of moderate thickness; it does not have a thin top panel member; and hence does not anticipate the claims. Moreover, Carlberg is not a reusable device. Claims 13, 14 and 17 are method claims and recites pivoting the channel member about the point of engagement of the side panel members with the wall in a generally downward direction to seat one end of the channel member on the wall and essentially align the channel member with the wall and then seating the remainder of the channel member by progressively pressing downwardly on the top panel member beginning at one end thereof. Clearly, this is not taught or suggested by the reference.

Claims 1, 5, 6, 9, 13 and 14 were rejected under 35 U.S.C. §102(b) as being anticipated by Pulsipher (US 5,772,185).

Pulsipher does not anticipate the claims. The resilient wall cap of this reference does not appear to be reusable and does not appear to be designed for protecting newly laid block or brick.

walls from inclement weather. In claim 1, the top panel member is characterized as having a "smooth, flat interface which is adapted to engage the topmost surface of said newly laid block or brick wall" which is not the case with Pulsipher. It should be noted in this regard that newly added 15 - 17 do not have this limitation therein and that this limitation has been deleted from method claim 13.

Dealing with the method claims 13 and 14, it should be noted that these claims recite that the protection device of this invention is first engaged at one end of the wall and:

... (c) then pivoting said channel member about the point of engagement of said side panel members with said wall in a generally downward direction to seat one end of said channel member on said wall and essentially align said channel members with said wall, and

(d) then seating the remainder of said channel member on the top of said wall by progressively pressing downwardly on said channel top panel member beginning at said one end.

This is not taught or suggested by either reference, and in view thereof, further and favorable reconsideration is respectfully requested. New method claim 17 is patentable for the same reasons.

Claims 15 and 16 do not recite that the top panel member is flat or engages the top of the newly laid wall.

Respectfully submitted,

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Attachments: Version with Markings to Show Changes Made
Letter to the Official Draftsman

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

The claims have been amended as follows:

1. (Amended) A reusable fresh masonry wall protection device for rapidly protecting a newly laid block or brick wall from inclement weather and providing temporary reinforcement for the upper layer of newly laid blocks or bricks, said newly laid wall having a width W comprising:

a thin plastic channel element having a top panel member and a pair of parallel side panel members,

said top panel member having width greater than W and a smooth, flat inner face which is adapted to engage the topmost surface of said newly laid block or brick wall,

said parallel side panel members being springy and angled inwardly so that they engage the newly laid block or brick wall, and have lower ends which angle outwardly to form a guideway for installing said protection device on said newly laid block or brick wall.

- 15
2. (Amended) [The fresh masonry wall protection device defined in claim 1] A reusable fresh masonry wall protection device for rapidly protecting a newly laid block or brick wall from

inclement weather, said newly laid wall having a width w
5 comprising:

a thin plastic channel element having a top panel member and a pair of parallel side panel members,

said top panel member having width greater than w
and a smooth, flat inner face which is adapted to engage
the topmost surface of said newly laid block or brick
wall,

said parallel side panel members being
springy and angled inwardly so that they
engage the newly laid block or brick wall, and
have lower ends which angle outwardly to form
a guideway for installing said protection
device on said newly laid block or brick wall
and wherein said top panel member is provided
with a plurality of spaced rebar punchouts.

3. (Amended) The reusable fresh masonry wall protection device defined in claim 2 wherein said rebar punchouts are elongated along the length of said top panel member and selected from a pull tab with score lines and a series of starburst score lines which are punchable through.

6. (Amended) The reusable fresh masonry protection device defined in claim 1 wherein one end of said channel element is

provided with [guide] score lines for adapting the ends of said devices to cover corners and other wall angulations.

8. (Amended) The fresh masonry protection device defined in claim [1] 7 wherein said top panel member includes a pair of insulated electrical wires for supplying electrical energy to heating elements or light bulbs at spaced intervals along the 5 length of said freshly laid wall.

9. (Amended) The fresh masonry wall protection device defined in claim [1] 7 wherein said top panel member is wider than the width of said newly laid block or brick wall and said side panels have ends that are angled outwardly to form guideways for 5 installing said protection device onto said newly laid block or brick wall.

12. (Amended) The fresh masonry wall protection device defined in claim [11] 10 wherein said top panel member is wider than the width of said newly laid block or brick wall and said side panels have ends that are angled outwardly to form guideways for 5 installing said protection device onto said newly laid block or brick wall.

13. (Amended) A method for rapidly protecting a newly laid block or brick wall from inclement weather and providing temporary

reinforcement for said top row, said newly laid block or brick wall having oppositely facing sides and a top row of blocks or bricks, 5 said top row having an end block or brick, and providing temporary reinforcement for said top row comprising:

(a) providing [an] reusable extruded channel member having a top panel member and a pair of parallel side panel members, [said top panel member having a smooth, flat inner face which is adapted 10 to engage the topmost surface of said newly laid block or brick wall,] said parallel side panel members being springy and angled inwardly so that they simultaneously engage said oppositely facing sides of the newly laid block or brick wall when in place on the wall and have angled ends forming a guideway for receiving the top 15 row of said newly laid block or brick wall,

(b) engaging [the] said sides of said wall adjacent the top with one end of said guideway and expanding the distance between the engaging side panel members by the width of said wall,

(c) then pivoting said channel member about the point of 20 engagement of said side panel members with said [wall] sides in a generally downward direction to seat one end of said channel member on said wall, and essentially align said channel member with said wall, and

(d) then seating the remainder of said channel member on the 25 top of said wall by progressively pressing downwardly on said top panel member beginning at said one end.